

Message Text

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64

ORIGIN EA-09

INFO OCT-01 ISO-00 DODE-00 H-02 PM-04 NSC-05 SP-02 SS-15

ACDA-07 MC-02 CIAE-00 INR-07 NSAE-00 PA-01 USIA-06

PRS-01 L-03 /065 R

DRAFTED BY EMF/L:PNORTON /EA/J:EMFEATHERSTONE:BB

APPROVED BY EA/J: WILLIAM C. SHERMAN

DOD/ISA - LTC. BARRETT

H - ASWIFT

DOD/ISA/GC -JSILBER

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P 161749Z SEP 76

FM SECSTATE WASHDC

TO AMEMBASSY TOKYO PRIORITY

INFO CINCPAC PRIORITY

COMUSJAPAN PRIORITY

C O N F I D E N T I A L STATE 229477

E.O. 11652: XGDS-1

TAGS: MARR, JA, MPOL

SUBJECT: SUBCOMMITTEE ON DEFENSE COOPERATION (SDC)
MEETING

REF: TOKYO 13195

CINCPAC ALSO FOR POLAD

1. IN VIEW OF ADVISORY CHARACTER OF SDC, IT WOULD SEEM
EXTREMELY UNLIKELY THAT ANY OF ITS PROCEEDINGS COULD CON-
STITUTE OR DIRECTLY RESULT IN AN "AGREEMENT" WITHIN THE
MEANING OF THE CASE ACT (1 USC 112B). THUS, THERE
WOULD BE NO STATUTORY OBLIGATION ON OUR PART TO SUBMIT ANY
SUCH PROCEEDINGS TO CONGRESS IN THE ABSENCE OF A DIRECT
REQUEST.

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2. IT WOULD SEEM HIGHLY UNLIKELY AS WELL THAT CONGRESS WOULD EXPRESS ANY INTEREST IN SEEING SDC RECORDS. THE PROBLEM WHICH THE GOJ RAISED IN REFTEL IS, THEREFORE, A VERY HYPOTHETICAL ONE.

3. WE CANNOT, HOWEVER, GUARANTEE THAT SOME MENTION OF SDC PROCEEDINGS WILL NOT ARISE IN THE COURSE OF CONGRESSIONAL HEARINGS, OR THAT CONGRESS WILL NOT REQUEST INFORMATION CONCERNING SDC PROCEEDINGS. IN SUCH AN EVENT, WE COULD WITHHOLD THE RECORDS ONLY IF THE PRESIDENT WERE PREPARED TO INVOKE EXECUTIVE PRIVILEGE. WE COULD NOT GIVE ANY ASSURANCE IN ADVANCE THAT EXECUTIVE PRIVILEGE WOULD BE INVOKED WITH RESPECT TO ANY OR ALL SUCH PROCEEDINGS.

4. IF CONGRESS DID REQUEST RECORDS OF SDC PROCEEDINGS WE WOULD CERTAINLY TRY TO CONSULT WITH THE GOJ PRIOR TO RELEASING THEM. WITH RESPECT TO ANY MATERIALS OF A SENSITIVE NATURE, WE WOULD, OF SOURCE, INSIST THAT CONGRESS TREAT THEM ON AN APPROPRIATELY CLASSIFIED BASIS. MORE THAN THAT WE CANNOT GUARANTEE.

5. YOU MAY RESPOND TO GOJ DRAWING ON THE ABOVE AND ASSURING THEM OF OUR BEST INTENTIONS RE SDC PROCEEDINGS. HABIB

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